

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CONSTELLATION NEWENERGY, INC.	:	CIVIL ACTION
	:	
v.	:	
	:	
POWERWEB, INC.	:	NO. 02-2733

ORDER

AND NOW, this day of August, 2004, it is hereby
ORDERED that:

(1) the motion of plaintiff Constellation NewEnergy, Inc. ("NewEnergy") in limine to exclude the expert testimony and expert reports of Constantinos Pappas, C.P.A. is DENIED without prejudice;

(2) the court shall conduct a hearing regarding the qualification of Mr. Pappas to testify as an expert witness. See Daubert v. Merrell Dow Pharms., 509 U.S. 579 (1993); and

(3) the motion of plaintiff NewEnergy to exclude the expert testimony of Peter Fox-Penner, Ph.D., is DENIED without prejudice. Depending on the outcome of the Daubert hearing held for Mr. Pappas, Dr. Fox-Penner may be precluded from presenting evidence or testimony that derives from Mr. Pappas' report.

BY THE COURT:

J.